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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,933	01/16/2004	Johann Heinrich Cuhls	AUS920030598US1	8215
7590 Barry S. Newberger 1201 Main Street P.O. Box 50784 Dallas, TX 75250-0784				
EXAMINER JOSEPH, TONYA S				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/759,933

Applicant(s)

CUHLS ET AL.

Examiner

TONYA JOSEPH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 26-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Status of Claims

Claims 1-4, 6-8 and 25 have been previously examined. Claims 1-4, 6-8 and 25 have been cancelled. Claims 26-33 have been added. Thus claims 26-33 are presented for Examination.

Response to Arguments

1. Applicant's arguments with respect to claims 26-33 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Piccionelli U.S. Pre-Grant Publication No. 2002/0107965 A1 in view of Nabkel et al. U.S. Patent No. 6,141,328.

4. As per Claim 26, Piccionelli teaches receiving a queue entry request, wherein said queue entry request comprises patron-supplied personal contact information (see para. 25), placing said patron at a next available position in said queue (see para. 25); updating a position of said patron in said queue if another patron associated with a top position in said queue has been served (see para. 25); and notifying said patron, using

said patron-supplied contact information, of a current position of said patron in said queue and an estimate time at which said patron will be served (see para. 27).

Piccionelli does not explicitly teach the limitation taught by Nabkel wherein said queue entry request further comprises a position in said queue at which point a patron is to be notified (see Col. 6 lines 23-39) notifying said patron, upon said patron reaching said position in said queue at which said patron is to be notified, of a current position of said patron in said queue (see Col. 6 lines 23-39). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Piccionelli to include the teachings of Nabkel to allow a customer to negotiate the terms of a two-way hold.

5. Claims 26 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piccionelli U.S. Pre-Grant Publication No. 2002/0107965 A1 in view of Deh-Lee U.S. Pre-Grant Publication No. 2005/0010357 A1.

6. As per Claim 26, Piccionelli teaches receiving a queue entry request, wherein said queue entry request comprises patron-supplied personal contact information (see para. 25), placing said patron at a next available position in said queue (see para. 25); updating a position of said patron in said queue if another patron associated with a top position in said queue has been served (see para. 25); and notifying said patron, using said patron-supplied contact information, of a current position of said patron in said queue and an estimate time at which said patron will be served (see para. 27). Piccionelli does not explicitly teach the limitation taught by Deh-Lee wherein said queue entry request further comprises a position in said queue at which point a patron is to be

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notified (see para. 13); notifying said patron, upon said patron reaching said position in said queue at which said patron is to be notified, of a current position of said patron in said queue (see para. 13). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Piccionelli to include the teachings of Deh-Lee to allow a customer to arrive at a servicing location in time for an appointment.

7. As per Claim 31, Piccionelli in view of Deh-Lee teaches the method of claim 26 as described above. Piccionelli further teaches wherein said queue entry request is received via a web page (see para. 28 and 30).

8. Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piccionelli U.S. Pre-Grant Publication No. 2002/0107965 A1 in view of Deh-Lee U.S. Pre-Grant Publication No. 2005/0010357 A1 in further view of Matsubayashi et al. U.S. Pre-Grant Publication No. 2003/0093670 A1.

9. As per Claim 27, Piccionelli in view of Deh-Lee teaches the method of claim 26 as described above. Piccionelli further teaches notifying said patron, using said patron-supplied contact information, upon said patron reaching said top position in said queue, that said patron is ready to be served (see para. 25, Examiner is interpreting the performer providing the user with a service as a notification that said patron is ready to be served). Piccionelli in view of Deh-Lee does not explicitly teach the limitation taught by Matsubayashi and starting a timer to count a first duration of time after said patron is notified that said patron is ready to be served (see para. 19 and 167). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to

modify the methods of Piccionelli and Deh-Lee to include the teachings of Matsubayashi to allow a customer to determine if he wants to access a resource.

10. As per Claim 28, Piccionelli in view of Deh-Lee in further view of Matsubayashi teaches the method of claim 27 as described above. Although, Matsubayashi teaches de-queuing said patron from said queue if said patron is ready to be served prior to an expiration of said first duration of time (see para. 166-167 and 179, Examiner is interpreting a user that has been granted exclusive control, selecting a print option as a patron responding to a notification). Matsubayashi doesn't explicitly teach de-queuing in response to a patron responding, however, it is old and well known for patrons to respond to notifications and for service providers to act on their response. For example, Deh-Lee teaches a customer being provided notification of a service provider's arrival and the subsequent re-scheduling of an appointment (see para. 13). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Piccionelli and Deh-Lee to further include the teachings of Matsubayashi to advance a queue when a customer is being serviced.

11. As per Claim 29, Piccionelli in view of Deh-Lee in further view of Matsubayashi teaches the method of claim 27 as described above. Piccionelli does not explicitly teach the limitation taught by Matsubayashi placing said patron at an end of said queue if said patron does not respond to said notification that said patron is ready to be served prior to an expiration of said first duration of time (see para. 167 and 171). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to

modify the methods of Piccionelli and Deh-Lee to include the teachings of Matsubayashi to prevent idle time on queued resources.

12. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Piccionelli U.S. Pre-Grant Publication No. 2002/0107965 A1 in view of Deh-Lee U.S. Pre-Grant Publication No. 2005/0010357 A1 in further view of Jilk, Jr. et al. U.S. Pre-Grant Publication No. 2002/0010746 A1.

13. As per Claim 30, Piccionelli in view of Deh-Lee teaches the method of claim 26 as described above. Piccionelli does not explicitly teach the limitation taught by Jilk, Jr. wherein said queue entry request is received via electronic mail (see para. 100). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Piccionelli and Deh-Lee to include the teachings of Jilk to enable request to be sent via web.

14. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Piccionelli U.S. Pre-Grant Publication No. 2002/0107965 A1 in view of Deh-Lee U.S. Pre-Grant Publication No. 2005/0010357 A1 in further view of Matsubayashi et al. U.S. Pre-Grant Publication No. 2003/0093670 A1 and Schwartz et al. U.S. Pre-Grant Publication No. 2003/0061114 A1.

15. As per Claim 32, Piccionelli in view of Deh-Lee teaches the method of claim 26 as described above. Piccionelli does not explicitly teach the limitation taught by Matsubayashi wherein a position of said patron is swapped with a position of another patron if said patron's party cannot be accommodated (see para. 177). While it is very old and well known that a party can contain more than one person, Piccionelli does not

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explicitly teach the limitation. Schwartz has been provided to show this old and well known feature (see para. 73). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Piccionelli and Deh-Lee to further include the teachings of Matsubayashi and Schwartz to allow priority usage to a customer.

16. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Piccionelli U.S. Pre-Grant Publication No. 2002/0107965 A1 in view of Deh-Lee U.S. Pre-Grant Publication No. 2005/0010357 A1 in further view of Costantini et al. U.S. Patent No. 5,506,898.

17. As per Claim 33, Piccionelli in view of Deh-Lee teaches the method of claim 26 as described above. Piccionelli in view of Deh-Lee does not explicitly teach the limitation taught by Costantini wherein said estimate time at which said patron will be served is determined based on a rate at which patrons have been served between a current time and a time of a last notification to said patron (see the Abstract of Costantini and Col. 5 lines 1-9). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Piccionelli and Deh-Lee to further include the teachings of Costantini to provides up-to date wait time information.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TONYA JOSEPH whose telephone number is (571)270-1361. The examiner can normally be reached on Mon-Fri 7:30am-5:00pm First Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571 272 0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tonya Joseph
Examiner
Art Unit 3628

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628